

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**ELIZABETH CALKINS,**

**Plaintiff,**

**Civil Action No.** 12-CV-11960

**v.**

**ASSOCIATED CREDIT SERVICES, INC.;**  
**and**  
**DOE 1-5**

**Defendants.**

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**COMPLAINT**

**(Jury Trial Demanded)**

1. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (“FDCPA”).

**JURISDICTION AND VENUE**

2. This Court exercises jurisdiction under 15 U.S.C. 1692k and 28 U.S.C. 1331. This District is of proper venue as Plaintiff is a resident within this District and Defendants engaged in collection efforts against Plaintiff while Plaintiff so resided.

### **PARTIES**

3. Plaintiff, ELIZABETH CALKINS (hereinafter “Plaintiff” or “Ms. Calkins”), is a natural person residing in Pittsfield, Massachusetts. Defendant, ASSOCIATED CREDIT SERVICES, INC., (hereinafter “Defendant”) is a Massachusetts corporation believed to maintain its principle place of business at 115 Flanders Road Suite 140 in Westborough, MA. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOE 1-5, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities once ascertained. Plaintiff believes and thereon alleges that the fictitiously named defendants are responsible in some manner for the occurrences herein alleged, and that such defendants are responsible to Plaintiff for damages and/or monies owed. Defendants ASSOCIATED CREDIT SERVICES, INC. and DOE 1-5 shall be jointly referred to as “Defendants” herein.

4. Defendants regularly operate as third-party debt collector and are “debt collectors” as defined in 15 U.S.C. 1692a.

### **FACTUAL ALLEGATIONS**

5. Defendants engaged in debt collection efforts in an attempt to collect a consumer debt alleged owed by Ms. Calkins.

6. Ms. Calkins was staying at her mother’s home temporarily while she attempted to improve her financial situation. Defendants would call the home phone number of Ms. Calkins’s mother and leave collection-type messages. At no point in time did Ms. Calkins authorize Defendants to communicate with her mother regarding the alleged debt or any other matter. The sole phone in the house is situated in the mother’s room with a conventional-type

answering machine. On October 24, 2011, Defendants left a message for Ms. Calkins, which was overheard by her mother while in her room. The content of the message is substantially as follows:

“Elizabeth J Calkins. If you are not Elizabeth J Calkins, please hang up or disconnect now. If you are Elizabeth J Calkins, please continue to listen to this message. There will now be a 3-second pause in this message. By continuing to listen to this message you acknowledge you are Elizabeth J Calkins. Elizabeth J Calkins, you should not listen to this message so that other people can hear it, as it contains personal and private information. There will now be a 3-second pause in this message to allow you to listen to this message in private.

This call is from Associated Credit Services. This is an attempt to collect a debt, and any information obtained will be used for that purpose. Please call us toll-free at 1-800-962-9898, Monday through Thursday 8AM until 9PM Eastern Standard Time, Friday 8AM until 5PM Eastern Standard Time, or Saturday 8AM until 12PM Eastern Standard Time. When you call, please quote reference number 8391323. Thank you for your prompt attention to this matter.”

7. Ms. Calkins, being unable to cope with the collection calls which were disturbing to both her and her mother, obtained counsel with Robert Amador of Centennial Law Offices.

8. On January 10, 2012, Mr. Amador contacted Defendants by telephone, advised them that Ms. Calkins was represented by counsel, and provided his contact information. Defendants confirmed that they had an account in collection and provided Mr. Amador with a reference number of 8391323.

9. On January 27, 2012, Defendants sent Ms. Calkins a collection letter which contained the reference number of 8391323.

## **CAUSES OF ACTION**

### **COUNT I**

10. Plaintiff re-alleges paragraphs 1 through 9, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants, and each of them, violated 15 U.S.C. 1692d(6) and 1692(e)11 with regards to Plaintiff as follows: In their messages to Plaintiff, Defendants failed to identify the name of the individual placing or otherwise responsible for the calls.

### **COUNT II**

11. Plaintiff re-alleges paragraphs 1 through 9, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants, and each of them, violated 15 U.S.C. 1692c(b) with regards to Plaintiff by communicating to an unauthorized third-party in connection with the collection of the DEBT.

### **COUNT III**

12. Plaintiff re-alleges paragraphs 1 through 9, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants violated 15 U.S.C. 1692c(a)(2) with regards to Plaintiff as follows: Defendants continued to make collection calls to Plaintiff after they had actual knowledge that Plaintiff was represented by counsel.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays judgment against Defendant for recovery, each count in the alternative, as follows:

- 1.) For statutory damages in the amount of \$1,000 pursuant to 15 U.S.C. 1692k(2);
- 2.) For actual damages of \$2,555.00 for legal costs in responding to unlawful collection activity.
- 3.) For prejudgment interest in an amount to be proved at time of trial;
- 4.) For attorney's fees pursuant to 15 U.S.C. 1692(k)
- 5.) For the costs of this lawsuit; and
- 6.) For any other and further relief that the court considers proper.

### **JURY DEMAND**

Plaintiff demands a jury trial.

Date: October 22, 2012

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